



ACLU

**AMERICAN CIVIL LIBERTIES UNION
of MINNESOTA**

CIVIL LIBERTIES NEWS

Published quarterly in Spring, Summer, Fall, and Winter

Publication Office:
2300 Myrtle Ave, Suite 180
St. Paul, MN 55114

Fall Newsletter 2011

Court releases documents that shed light on TiZA lawsuit

United States District Court Judge Donovan Frank approved a partial settlement of the American Civil Liberties Union of Minnesota's lawsuit against the Tarek ibn Ziyad Academy, the Minnesota Department of Education, the School's former sponsor, Islamic Relief, and various school officials. The ACLU-MN initiated this landmark lawsuit in 2009 to end the use of public funds to promote religion at TiZA. TiZA is now closed because it could not secure an authorizer to replace its original sponsor, Islamic Relief. An authorizer is required in Minnesota for all public charter schools.

The settlement includes a requirement that every charter school in Minnesota must file a report annually confirming and disclosing any religious entanglement at these state-supported institutions. False reporting on these disclosure forms can be prosecuted under Minnesota criminal statutes. Additionally, Judge Frank authorized the release of a fact statement compiled by the ACLU-MN, the Commissioner, and Islamic Relief. These facts are backed by evidence and the three parties believe that they should not be disputed. The fact statement outlines a number of the violations perpetrated by TiZA.

Continued on page 4

District Court lifts unconstitutional restraining order

Inside This Issue

- Page 2.....From the President
- Page 3.....From the Executive Director
- Pages 4The Legal Briefcase
- Page 5.....News from the Capitol
- Page 6.....News from the GMRJPS
- Page 7.....Development Update

Civil Liberties News
(USPS # 114-860)

Subscription by Membership Only

PERIODICAL postage paid at St. Paul, MN, and additional mailing offices.

POSTMASTER: Send address changes to Civil Liberties News, 2300 Myrtle Ave, Suite 180 St. Paul, MN 55114

At a hearing on September 1 in Park Rapids, cooperating attorneys Tim Griffin and Liz Kramer obtained the dismissal of an unjust restraining order. The ACLU-MN represented Gordan Van Wert and Mary Kotowski arguing that the restraining order issued on behalf of Tim Pearson was used improperly to suppress their freedom of speech rights.

After numerous attempts to resolve a personal matter with Pearson, Van Wert and Kotowski exercised their First Amendment right by protesting on the public sidewalk in front of Tim Pearson's funeral home business. Pearson then sought an ex parte harassment restraining order against Kotowski and Van Wert. Pearson was granted a restraining order without notice that stated that Kotowski and Van Wert could not come within 3000 feet of Pearson's business. The area encompassed by the restraining order prevented them access to their doctors, the post office and even the court house.

Continued on page 4

From the President

Vance Opperman



Why true conservatives should love the ACLU

We occasionally come across people who tell us that because they are conservatives, they dislike the ACLU. This has always seemed to me to be truly backward reasoning. We were all probably taught in college that, according to Hume, a conservative is a person who believes that wisdom and guidance are found in the accumulation of cultural and societal experiences gathered from many years of experience; successful history will be your guide to a successful future. Of course, those of us in the ACLU believe that wisdom, at least in part, is found in the even-handed application of those principles embodied in the United States Constitution and particularly our Bill of Rights. This successful accumulation of practices over the last 212 years is our surest guide to success as a nation in the future. Sounds pretty conservative to me.

You would also think that those for whom religious belief is paramount would value our Constitution's guarantee of free exercise of religion. Many countries, including many that the United States gives billions of dollars, sentence

to death people who espouse a minority religion. Other countries require citizens' tax money to support a state church. The genius of the United States' First Amendment is that all religions are free from government coercion or government sanction. This has been an enormous strength of the United States, and we have basically avoided the religious wars which have torn other societies apart.

Those who seem most offended by our current president, including congressmen who yell out "you lie," or those most ardently angered by the previous president, should be exactly the people most enthusiastically embracing the First Amendment. You can't even criticize the Queen in England; but then again, the English lack a written Constitution.

The truth of the matter is that the most dependable charter of liberty and individual freedom is to be found in our Bill of Rights, and those who claim to be true conservatives should be the most numerous among our membership.

Board of Directors

President.....Vance Opperman Vice President.....Samuel Heins
Treasurer.....Cris Stainbrook Secretary.....Ronald DeHarpporte
Affirmative Action Officer.....Raleigh Levine ACLU National Delegate.....Rebecca Rand

Melanie Benjamin, Tim Branson, Nate Dybvig, Sandra Feist, Anita Fineday, Albert Goins, John Gulla, Thomas C. Kayser, Carolina Lamas, Jonathan Lebedoff, Jennifer Martin, Scot Milchman, Nicole Moen, Todd Noteboom, William Pentelovitch, TJ Pierret, Susan Harper Ritten, Paul Redleaf, Leslie Sandberg, Robert Sykora#

From the Executive Director

Charles Samuelson



Civil liberties challenge coming

In about 12 months we will have the opportunity to elect our entire State legislature, one of our United States senators and all of our federal representatives. In addition, we will have the opportunity to weigh in on one or more constitutional amendments. We cannot overstate the civil liberties implications of this election.

We got here because 1/3 of the Minnesotans who voted in 2008 didn't vote in 2010. There were reasons why that happened, and no one has an obligation to vote. But when only 53% of those who could vote, do vote, you have a situation where a small number of people can take over the government. That is what happened.

As a result of the 2010 election, both houses of the Minnesota legislature switched from Democrat to Republican by a combined total of 7 seats. The State also elected its first Democratic governor in 35 years. The consequence was stalemate, and the solution of the legislature was to introduce constitutional amendments for the people to vote on. Here are the ones the ACLU is the most concerned about:

- The first defines marriage as between one man and one woman (already passed).
- Another amendment would require a voting identification card (expected to pass).
- A third amendment creates new regulations dictating how labor unions operate in Minnesota (expected to pass).

The ACLU opposes these three amendments and will probably oppose the others that may be written. As members, we will need your

continued financial support to stop these unconstitutional amendments. And we will want you to "just vote no" on the amendments.

But we want more than your money or your vote: being a member of the ACLU is a private thing, and in some parts of Minnesota, a very unpopular thing. The forces opposing civil liberties know that and depend on the volume of their side to silence the voices of those who oppose their point of view. Now is the time for us to get off the couch and into the front yard. It's time for ACLU members and supporters to let everyone know who they are and what they stand for.

Let me offer some suggestions:

- Write some letters to the editor talking about the things you'd like the government to do or continue doing. Let them know that you're an ACLU member.
- Talk to your friends about joining. Some will and some won't, but knowing that you are a member will change their opinion of the rest of us. We're online at www.aclu-mn.org.
- Did I forget to mention that you and your friends could have an ACLU fundraiser? With enough notice, I'd show up. For more money, I'd even not come!

The point is that we need to start talking about things like marriage and voting and about how the Constitution really does allow these things.

Finally, you are not alone. You are one of more than 25,000 Minnesota supporters of the ACLU. I hope to hear from you a lot over the next 12 months.

From the Legal Briefcase

TiZA continued

Here are a few highlights from the fact statement:

- TiZA illegally transferred money to its religious landlords
- TiZA was marketed to the Muslim community as a school that would follow Islamic law
- TiZA and its religious landlords are effectively controlled by the same small group of people
- TiZA promoted Islam through its Arabic curriculum and its connection to the after school religious program
- TiZA used taxpayer funds in excess of a million dollars to renovate buildings to the benefit of their religious landlords

The ACLU hopes this will lead to even further charter school reform, as this case highlights the problems that arise from the lack of transparency in charter school laws.

Cooperating attorneys for the case include: Peter Lancaster, Katie C. Pfeifer, Christopher Amundsen, Ivan Ludmer, Mark Wagner, Dustin Adams, Shari Aberle, and Monica Clark all of Dorsey & Whitney LLP. The documents released can be found on our website at: www.aclu-mn.org

Restraining Order continued

The ACLU-MN argued in their brief that the restraining order was used improperly to suppress its clients First Amendment rights, and that the complained of speech did not meet the threshold required to obtain a restraining order.

At the hearing on September 1, the court granted the ACLU-MN's request, vacated the restraining order against Van Wert and Kotowski and dismissed the case with prejudice.

Cooperating attorneys for the case include: Tim Griffin and Liz Kramer of Leonard Street and

Freedom of Speech at the State Fair

At the 2011 Minnesota State Fair, a fairgoer dressed in patriot garb and played a snare drum to show support for presidential candidate Ron Paul. Despite the lack of any State Fair rules regulating such conduct, officials ordered the drummer to stop, telling him that he could only play the drum under the confines of an officially licensed booth.

While officials cited a State Fair rule prohibiting the unlicensed handing out or promotion of materials, this rule does not apply to his show of support for Ron Paul, as he sought only to express himself, rather than promote any material.

The State Fair does have a constitutional right to set reasonable time, place and manner restrictions on speech when it has a legitimate government interest. That said, the Supreme Court has ruled that public forums may only restrict the distribution of literature when individuals are allowed to express themselves vocally and mingle with the crowd. The Supreme Court has thus recognized that the public expression of views, such as that of fairgoers, constitutes protected speech. By ordering the drummer to confine his expression to a licensed booth, State Fair officials violated his right to freedom of expression.

The ACLU has informed the State Fair of this violation of rights and has requested that the State Fair allow demonstrations and rethink its policies on public expression.

"The TiZA case highlights the problems that can arise from the lack of transparency in public charter school laws"

Elevator Speeches

Contributed by Carolyn Jackson

As the Legislature works to circumvent the Governor and legislate via constitutional amendment, defenders of the constitution are going to need a lot of elevator speeches. An elevator speech is a speech 30 seconds or less that explains something and makes an ask.

We can talk about same sex marriage: National research shows that to reach those undecided about same sex marriage, the most effective language is to speak from the heart about how *marriage = love + commitment*. A personal story about why marriage is important to you or how you came to support same sex marriage can be told in an elevator speech.

We can talk about voting rights and voter suppression: Requiring an ID to vote will automatically take away the ability to vote of 140,000 Minnesotan voters. It is surprising how many citizens do not carry an ID that shows their current address. Think of an elderly relative who had to move into a nursing home because of a medical emergency. That relative won't be able to vote unless he or she can get to the DMV for a new ID.

We can talk about the concentration of power: All of the potential constitutional amendments the legislature may pass in 2012 focus on limiting who can wield power.

The ask: The ACLU-MN fights for the rights of all people. This means increasing voting rights, breaking barriers of discrimination, and creating a fair process for everyone. It's time to talk to our neighbors and ask them to join us and ensure the blessings of liberty.

Join our action list today so you can stay informed on the progress of the marriage amendment.

Go online to www.aclu-mn.org and click *Join the Legislative Action Network*

Public Education

State Fair Straw Poll

At the State Fair this year, the ACLU-MN conducted a straw poll on the proposed constitutional amendments mentioned in the previous article. The poll also asked participants about amendments restricting tax increases, and one that would impose new regulations on labor unions that would make it harder for unions to organize as one entity.

The results of the 1,427 survey are as follows:

Marriage amendment - FAILED

Yes: 15.7 %

No: 84.3%

Voter ID Requirement- FAILED

Yes: 34.4%

No: 65.6%

Labor Union Participation (right to work) - PASSED

Yes: 54.5 %

No: 45.5%

Tax Increase Restrictions (Tax Payer's Bill of Rights) FAILED

Yes: 34.4%

No: 65.6%

This was not an official poll, it was merely done for educational purposes.

New Teen Rights documents

The ACLU-MN has developed two new teen rights resources. The first is a pamphlet spelling out the sexual rights of teens. The information includes access to contraception and testing, information about abortion, adoption and medical care and rights for teens in school.

We have also created a rights card listing protections for pregnant and parenting teens in school. Among others, the card details the rights of pregnant and parenting teens to stay in their current school, participate in extracurricular activities, and receive the same treatment and rights as any other student.

If interested, the ACLU-MN will send you these items free of charge. Please contact Jana Kooren for any requests at 651-645-4097 x123 or jkooren@aclu-mn.org

GMRJP - Bemidji

Contributed by: Audrey Thayer & Cory Cochrane

First, we'd like to welcome Cory Cochrane to our staff. Cory is GMRJP-Bemidji's new office manager and hails from Grand Marais, MN via western Massachusetts. Summer was a busy time for our project in northern Minnesota. We were active in many different community settings from Clearwater to Mahnomen County Fairs, Bemidji area equity trainings to Native American social events. As the weather grows cooler, we are working with a new group of interns, three of whom come to the project from BSU Social Work and Criminal Justice programs. Additionally, Audrey has been busy networking with Bemidji State University, Leech Lake and White Earth Tribal Colleges, in order to build a base of young supporters who know their rights! Because of the commitment of our student-interns, our court monitoring program is active in Itasca, Beltrami and Hubbard counties this semester.

In addition to our daily focus on complaint intake and court monitoring, we've also been gearing up for organizing on the Marriage and Voter ID Amendments. We've convened monthly "evenings of conversation" for community members to talk about LGBT Issues, the implications of the Marriage Amendment, and homophobia in northern Minnesota. We've also been strategizing about how to fight Voter ID, with particular attention to the impact such an amendment could have on indigenous communities. We have serious concerns about how voter ID could roll-back progress we made five years ago when the state recognized Tribal ID as a valid form of identification where state ID is accepted. Finally, we are very excited that on October 22nd board members Robert Skyora and Leslie Sandberg will be joining us for an ACLU-community appreciation event here in Bemidji!

GMRJP - Mankato

Contributed by: Jose Corpus

The ACLU Greater Minnesota Racial Justice Project Mankato is excited to announce that we are officially operating in Mankato and surrounding communities.

Many great things have happened since our arrival in Mankato. The Coordinator has been outreaching to key community leaders and Ian Bratlie has been hired as a staff attorney for the project.. He received his BA in History from the University of MN in 1999 and his JD from Seton Hall Law School in Newark, NJ in 2002. He has worked with a number of nonprofit groups and owned his own law firm before joining the ACLU. On September 10, 2011 we had our open house, which was a success thanks to all ACLU supporters.

On August 27, 2011 we were able to bring together over 20 community leaders from different organizations to a Racial Justice and Community Organizing Training in Mankato. The idea of this network is bring community leaders and organizations together to a table who share similar values, beliefs and community concerns. The ultimate goal is to build durable power to influence decision-makers on different issues that affect people of color. Power building is necessary among people of color; without power there is no ability to push for change. Once there is balance of power within the community racial equality follows.

The ACLU Greater Minnesota Racial Justice Project will continue to bring key leaders and issues to the table and provide trainings on issues that impact civil liberties and people of color. The ACLU staff and the Multiracial and Cultural Network are planning an education equity gathering, a marriage amendment training session and a voter suppression information session in the coming months, so please check our website for dates and times of these trainings.

Earl Larson Award

Honoring Peter M. Lancaster

Wednesday, November 30

at the
Minneapolis Club
Main Lounge ~ Second Floor
Eighth Street and Second Avenue South
Minneapolis

Hors d'oeuvres reception at 5:30 p.m.

Award presentation at 6:30 p.m.

RSVP with the enclosed card or by contacting Doris Rubenstein at 651.645.4097 extension 126;
drubenstein@aclu-mn.org.

Tickets online at www.aclu-mn.org

Peter Lancaster is an attorney and partner at Dorsey & Whitney LLP and has long been a supporter of the First Amendment and the ACLU. Peter first worked with the ACLU in the 1990s when he wrote amicus briefs in two related cases that dealt with the death of an 11 year-old boy.

Currently, Peter is the lead attorney for the ACLU-MN's case *ACLU v TiZA*. This case concerns a public charter school that promoted religion. Peter and his legal team from Dorsey & Whitney have donated more than 8,000 hours of time on this complex First Amendment case.

In 1996, the ACLU-MN created the Earl Larson Award to honor those attorneys who have pursued a lifelong commitment to justice and civil liberties work. The award is named for the founder of the ACLU-MN, Federal Judge Earl Larson.

Past recipients include: Hon. Earl Larson, Peter Dorsey, Lynn Castner, Leonard Lindquist, Dr. James Shannon, Walter Mondale, Hon. Rosalie Wahl, Doug Hall, Jack Davies, Michael Goldner, Kenneth Tilsen, Peter Thompson, Thomas C. Kayser and Timothy Branson.

Sponsors:



Johnson Printing & Packaging Corporation



Development

A star-spangled list of ACLU supporters headlined the ACLU-MN's Founders of the Future Awards event on August 8, 2011. Twin Cities improv favorite Stevie Ray hosted guitar legend Leo Kottke and ACLU National Legal Director Steve Shapiro before a packed auditorium of ACLU members and friends at the Hubert H. Humphrey Institute at the University of Minnesota. The event honored ACLU members who have 20+ years of unbroken membership and/or have lifetime giving to the ACLU of \$10,000+. Thanks to Founders Event Co-Chairs Ron DeHarpporte and Susan Harper Ritten and their whole committee for assembling an unforgettable evening. Special thanks to our sponsors: Hadassah and Maurice Heins; MSP Magazine; Heins, Mills & Olson; Johnson Printing and Packaging; Leslie Sandberg; William Mitchell College of Law; and Wipfli.



From L to r: Stevie Ray, Steven Shapiro, Leo Kottke and Vance Opperman

Staff

Executive DirectorCharles Samuelson
 Legal Counsel.....Teresa Nelson
 Director of Major Gifts.....Doris Rubenstein
 GMRJP Coordinator - Bemidji.....Audrey Thayer
 GMRJP Coordinator - Mankato....Jose Alonzo Corpus
 GMRJP Attorney.....Ian Bratlie
 Public Education Coordinator.....Jana Kooren
 Lobbying Coordinator.....Carolyn Jackson
 Assistant to the Executive Director.....Molly Miller
 GMRJP Office Manager.....Cory Cochrane
 Newsletter Editor:.....Jana Kooren



2300 Myrtle Ave
Suite 180
St. Paul, MN 55114

ACLU-MN Foundation Contribution Form

Mail completed form and your tax-deductible contribution to:
ACLU-MN Foundation ■ 2300 Myrtle Ave ■ Suite 180 ■ St. Paul, MN 55114

Name (please print) _____

Address _____

Email _____

Here is my tax-deductible gift of \$ _____ to
support the work of the ACLU-MN Foundation.

Method of Payment

Money Order

Check

Visa

MasterCard

American Express

Credit Card # _____

Exp. date _____

Signature _____

The **ACLU-MN Foundation** (ACLU-MN Foundation) is a 501(c)(3) nonprofit entity organized to help maintain and defend the rights of free speech, free press, free assemblage, and other human and civil rights and liberties secured by law; to provide legal defense of civil liberties secured by law for those persons who cannot afford to pay for the same; and to provide public education in civil liberties issues. The ACLU-MN Foundation fulfills its mission through programs and services provided by the American Civil Liberties Union of Minnesota (ACLU-MN).